

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

DAVID JOSEPH SANCHEZ, JR.,

Petitioner,

v.

Civil No. 3:13CV400

MARIE VARGO,

Respondent.

**MEMORANDUM OPINION**

By Memorandum Opinion and Order entered on March 21, 2014, the Court dismissed David Joseph Sanchez, Jr.'s 28 U.S.C. § 2254 petition as untimely filed. On March 31, 2014, Sanchez filed a Motion pursuant to Federal Rule of Civil Procedure 60(a) ("Rule 60(a)," ECF No. 14). Rule 60(a) provides:

The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

Fed. R. Civ. P. 60(a).

Sanchez asks the Court to correct the March 21, 2014 Order "to state with specificity the issue on which the Court granted a certificate of appealability." (Rule 60(a) Mot. 1.)

Rule 11(a) of the Rules Governing § 2254 Cases in U.S. District Courts provides that a "district court must issue or

deny a certificate of appealability when it enters a final order adverse to the applicant." Rules Governing § 2254 Cases in U.S. District Courts, Rule 11(a). Rule 11(a) further provides that "[i]f the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2)." Id.

Here, Sanchez has demonstrated that the Court omitted the specific issue upon which the Court granted a certificate of appealability. Accordingly, Sanchez's Rule 60(a) Motion will be granted. The Court's March 21, 2014, Memorandum Order shall be corrected to grant a certificate of appealability with respect to the following issue for appeal: Whether Miller v. Alabama, 132 S. Ct. 2455 (2012) satisfies 28 U.S.C. § 2244(d)(1)(C).

The Clerk is directed to send a copy of the Memorandum Opinion to counsel of record.

\_\_\_\_\_/s/ *REP*\_\_\_\_\_  
Robert E. Payne  
Senior United States District Judge

Date: *April 16, 2014*  
Richmond, Virginia